

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ATMOSPHERE HOSPITALITY
MANAGEMENT SERVICES, LLC,

Plaintiff,

CASE NO. 2:14-CV-10299
JUDGE DAVID M. LAWSON
MAGISTRATE JUDGE PAUL J. KOMIVES

v.

ROYAL REALTIES, LLC;
MASHKA, LLC; and
IESHULA ISHAKIS,

Defendants.

**ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS'
SEPTEMBER 24, 2014 MOTION TO COMPEL ANSWERS TO DEFENDANTS'
DISCOVERY DATED JUNE 23, 2014 (Doc. Ent. 78)**

A. Background

On June 23, 2014, defendants served requests for admission (Nos. 1-75), interrogatories (Nos. 1-3) and requests for production of documents (Nos. 1-14). *See* Doc. Ent. 78 at 9-36. Three (3) days later, on June 26, 2014, Judge Lawson entered an opinion and order (Doc. Ent. 57, Doc. Ent. 58) granting defendants' motion to disqualify counsel (Doc. Ent. 42), staying case, and authorizing immediate appeal.

On July 24, 2014, plaintiff filed a notice of its July 3, 2014 petition for permission to appeal to the Sixth Circuit. Doc. Ent. 62. Case No. 14-108 (6th Cir.). The petition argues that (A) "This Court Should Grant Interlocutory Appeal Because The District Mistakenly Applied The Bowers Standard Too Broadly[,"] and (B) "This Court Should Grant Interlocutory Appeal Because The District Court Mistakenly Applied The Doctrine Of Laches Too Narrowly[.]" Doc.

Ent. 62-1 at 8.

On August 1, 2014, defendants filed a motion (Doc. Ent. 63) for relief from stay.¹ On August 15, 2014, Judge Lawson entered an order (Doc. Ent. 65) modifying stay of proceedings, addressing discovery, and adjourning trial.

B. Instant Motion

Defendants have filed a motion (Doc. Ent. 78 at 1-8) to compel answers to their discovery dated June 23, 2014 (Doc. Ent. 78 at 9-36). Specifically, the motion seeks:

- A. Grant their motion to compel full and complete answers to all outstanding discovery requests dated June 23, 2014;
- B. Pursuant to Fed. R. Civ. P. 36(a)(3), deem all outstanding requests for admissions admitted;
- C. Award[] costs and fees for having to bring this motion pursuant to Fed. R. Civ. P. 37(a)(5)(A); and
- D. Grant any and all further relief deemed appropriate by this court.

Doc. Ent. 78 at 4.²

Plaintiff filed a response on October 8, 2014. Doc. Ent. 94.

C. Discussion

On October 15, 2014, defendants filed a statement of unresolved issues. Doc. Ent. 98.

According to defendants, it is plaintiff's position that the Court's June 26, 2014 order (Doc. Ent.

¹On August 14, 2014, a stipulation (Doc. Ent. 64) regarding stay, discovery and adjournment of trial was submitted to the Court.

²*The parties are scheduled to appear before Judge Lawson on November 24, 2014.* Specifically, on September 24, 2014, Judge Lawson entered an order (Doc. Ent. 79) adjourning the evidentiary hearing on three (3) motions (Doc. Entries 6, 18 & 36) until November 24, 2014. Doc. Ent. 79. At the same time, the bench trial was reset for November 24, 2014. Moreover, on October 16, 2014, the hearing on another motion (Doc. Ent. 81) was noticed for November 24, 2014.

57, Doc. Ent. 58) stayed all discovery in this matter; thus, plaintiff has no obligation to answer defendants' outstanding June 23, 2014 discovery requests. On the other hand, it is defendants' position that discovery remains a part of this case.

Judge Lawson has referred this motion to me for hearing and determination. Doc. Ent. 80. A hearing on this motion was noticed for October 22, 2014. Doc. Ent. 84, Doc. Ent. 102. On the date set for hearing, attorneys Edward G. Lennon and Steven Z. Cohen appeared.

Having considered the motion papers and oral argument from counsel for the parties, I conclude that the instant motion should be granted in part and denied in part. Specifically, within fourteen (14) days of the date of this order, plaintiff shall serve answers to Interrogatory Nos. 1-3, responses to Request for Production of Documents Nos. 1-14 and answers to Request for Admission Nos. 1-75. Defendants' request that all outstanding requests for admissions be deemed admitted is denied. Finally, defendants' request for costs and fees is denied.

D. Order

Accordingly, defendants September 24, 2014 motion to compel answers to defendants' discovery dated June 23, 2014 (Doc. Ent. 78) is GRANTED IN PART and DENIED IN PART. Plaintiff SHALL produced the aforementioned discovery within fourteen (14) days of the date of this order, unless objections thereto are filed.

IT IS SO ORDERED.

The attention of the parties is drawn to Fed. R. Civ. P. 72(a), which provides a period of fourteen (14) days from the date of receipt of a copy of this order within which to file objections for consideration by the district judge under 28 U.S.C. § 636(b)(1).

Dated: October 22, 2014

s/ Paul J. Komives
PAUL J. KOMIVES
UNITED STATES MAGISTRATE JUDGE

I hereby certify that a copy of the foregoing document was sent to parties of record on October 22, 2014, electronically and/or by U.S. Mail.

s/Michael Williams
Case Manager for
The Honorable Paul J. Komives